BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2000-185-C - ORDER NO. 2001-546

JUNE 29, 2001

N RE:	Application of Natel, LLC for a Certificate of)	ORDER
	Public Convenience and Necessity to Operate)	GRANTING
	as a Reseller of Interexchange)	CERTIFICATE FOR
	Telecommunications Services within the State)	LONG DISTANCE
	of South Carolina.)	AUTHORITY

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Natel, LLC ("Natel" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of interexchange telecommunications services within the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1999) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Natel to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Natel's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene were filed.

A hearing was convened on May 2, 2001, at 11:30 a.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable William Saunders, Chairman, presided. Natel was represented by Scott A. .Elliott, Esquire. Adelaide D. Kline, Staff Counsel, represented the Commission Staff.

Mr. Danny Ray Bannister, Sr., Vice President of Operations, Natel, LLC, appeared and testified in support of the Application. Mr. Bannister testified that he is responsible for the Company's overall operations outside of the area of administration, dealing with agents, customer service representatives and technical engineers. The record reveals that Natel is an Oklahoma limited liability company that has received authorization to transact business within the State of South Carolina. Upon receiving certification from the Commission, Natel plans to operate as a reseller of intraLATA and interLATA intrastate telecommunications services on a statewide basis. The record reveals that Natel has no plans at this time to construct any telecommunications transmission facilities in South Carolina. Natel will operate exclusively as a reseller. Specifically, Natel seeks authority to provide IntraLATA direct-dialed services including 1+ service, flat rate service, 800 inbound service, and travel cards and prepaid calling cards. Natel is currently authorized to provide telecommunications services in over twenty-five states and at the time of the hearing, was in the process of obtaining authorization in all forty-eight contiguous states and Hawaii. Mr. Bannister testified that Natel provides its services over an innovative Voice Over the Internet Protocol (VoIP) gatekeeper network. He said the Company works in conjunction with Cisco Corporation and currently has switching equipment located in Dallas and San Antonio, Texas, with a point of presence in six major cities in the United States. He offered that Natel is planning to cover approximately seventy-five percent of the United States with its own network.

Regarding the Company's technical ability to offer telecommunications services in South Carolina, Mr. Bannister testified that the Company now has approximately sixty people working in its customer service department which can be reached between the hours of 7:30 a.m. and 10:00 p.m. Monday through Friday, with an outside vendor that provides a live person answering the customer service line from 10:00 p.m. until 7:30 a.m. each day. He said the Company's name and toll-free telephone number, 1 (888) 916-2835, appears on its bills. He said Steve Taylor is the Company's customer complaint person. Mr. Bannister further said his Company will market its services via direct sales employees and agents. Mr. Bannister said Natel verifies that a customer wishes to switch its services to Natel by using a signed letter of authorization. Mr. Bannister acknowledged his Company's commitment to the marketing guidelines of the Federal Communications Commission (FCC) and compliance with the Commission's marketing guidelines. He said his Company offers its services to residential and business customers but primarily targets small businesses.

Mr. Bannister offered that Natel intends to utilize Qwest, MCI WorldCom, Global Crossing and Global Net as its underlying carriers. He confirmed that Natel will choose its underlying carriers based upon the quality of service of the carrier properly certified by the Commission to provide such service. The Company's regulatory contact person is Lynn Merritt who can be reached at 1 (888) 916-2835.

As to Natel's managerial abilities to offer the services it proposes to offer in South Carolina, Mr. Bannister testified that Natel is a family oriented business and that two of his sons are two of the owners of the Company. He said his son Danny Bannister, Jr. is the current Chief Executive Officer of Natel. The record reveals that Mr. Bannister Jr. graduated from the University of North Texas with degrees in Physics and Mathematics, specializing in high-energy physics. The record further reveals that James Bannister is President and Chad Dobbins is Vice President of Marketing. James Bannister and Chad Dobbins are responsible for the sales efforts of the Company, the evaluation of new products, recruiting and development of new agents, and the maintenance of current clients and agents. Mr. Bannister testified that Natel has hired several technical engineers to develop its network.

In support of Natel's financial ability to provide the services it seeks to provide in South Carolina, Mr. Bannister testified that Natel is in sound financial condition and has sufficient financial capability to maintain the services to be offered. He stated that the Company has financial stability and is growing constantly. He said that Natel had over \$23 million in sales at the end of September, 2000; had an additional \$8 million in the last quarter of 2000 to close the year at just under \$32 million in sales. Mr. Bannister offered that Natel has letters of credit through the Bank of America.

Mr. Bannister agreed the Company would make all the changes to Natel's tariff as recommended by the Commission Staff. The Company also agreed to add its email address and telephone number to each tariff page.

According to the Application and Mr. Bannister's testimony, Natel requests a waiver of 26 S.C. Code Ann. Regs. 103-610 (1976) so that Natel can maintain its records outside of South Carolina. The Company wishes to maintain its books and records at its headquarters in Oklahoma City, Oklahoma; it will keep South Carolina specific records. Mr. Bannister stated that the Company is aware and agrees to abide by the Commission's regulation that requires that these records be made available for examination by the Commission at reasonable hours. Natel also requested that it be allowed to keep its books and financial records according to the Generally Accepted Accounting Principles (GAAP) rather than according to the Uniform System of Accounts (USOA). According to Bannister, Natel does intend to offer prepaid calling cards. He said his Company is aware of the Commission's bond requirement regarding the sale of prepaid calling cards, and is willing to post the required bond. He further explained that the prepaid calling cards are not sold directly by Natel but rather are sold to distributors. Mr. Bannister said that some of the cards expire within six months after being purchased or after the first use; some cards do not expire at all; and some are rechargeable cards that are distributed through customer service representatives.

According to Mr. Bannister, Natel has never had authority denied in any state where it has applied for authority nor has the Company had authority revoked in any state where it has been granted authority. Additionally, he said that Natel has never been the subject of an investigation, fined or sanctioned by a state or federal regulatory body. According to the testimony, Natel has not marketed its services in South Carolina prior to receiving certification. Mr. Bannister testified that the Company has not received

revenues from the completion of intrastate calls in South Carolina prior to receiving certification. Additionally, he said that Natel has never been the subject of an investigation, fined or sanctioned by a state or federal regulatory body. Finally, Mr. Bannister testified Natel will abide by all the Commission's rules, regulations and Orders upon the Company receiving certification to operate as a reseller of intrastate interexchange telecommunications services in South Carolina. The Company agreed to provide the Commission with the final Tariff, a copy of its Bill Form, according to 26 S. C. Code Ann. Regs. 103-612.2.2 and 103-622.1 (1976).

After full consideration of the applicable law, the Company's application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

- 1. Natel is organized as a limited liability company under the laws of the State of Oklahoma and is authorized to do business as a foreign limited liability company in the State of South Carolina by the Secretary of State.
- 2. Natel operates as a non facilities-based reseller of interexchange services and wishes to provide its services in South Carolina.
- 3. Natel has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Natel to provide

intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

- 2. The Commission adopts a rate design for Natel for its resale of interexchange services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).
- 3. Natel shall not adjust its interexchange rates below the approved maximum level without notice to the Commission and to the public. Natel shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for interexchange services reflected in the tariff, which would be applicable to the general body of the Company's subscribers, shall constitute a general ratemaking proceeding and will be treated in

accordance with the notice and hearing provision of S.C. Code Ann. §58-9-540 (Supp. 1999).

- 4. If it has not already done so by the date of issuance of this Order, Natel shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations. Further, Natel shall file a copy of its Bill Form as required by 26 S.C. Code Ann. Regs. 103-612.2.2 and 102-622.1 (1976) with its final Tariff.
- 5. Natel is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.
- 6. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.
- 7. Natel shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Natel changes underlying carriers, it shall notify the Commission in writing.
- 8. Natel shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports can be found at the Commission's website at www.psc.state.sc.us/forms. The title of this form is "Annual Information on South Carolina Operations For Interexchange Companies and AOS". Be advised that the

Commission's annual report for telecommunication companies requires the filing of intrastate revenues and intrastate expenses.

- 9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Natel shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The "Authorized Utility Representative Information" form can be found at the Commission's website at www.psc.state.sc.us/forms; this form shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.
- LATA, Natel shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dial parity rules established by the Federal Communications Commission pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209).

11. As a condition of offering debit card services, the Commission requires the company to post with the Commission a bond in the form of a Certificate of Deposit worth \$5,000 drawn in the name of the Public Service Commission of South Carolina or a surety bond in the amount of \$5,000 which is payable to the Commission. The Certificate of Deposit shall be drawn on federal or state chartered banks or savings and loan associations which maintain an office in this state and whose accounts are insured by either the FDIC or the Federal Savings and Loan Insurance Corporation. A surety bond shall be issued by a duly licensed bonding or insurance company authorized to do business in South Carolina. This condition may be reviewed annually.

If the Company sells its debit cards to retail establishments for resale of the debit cards, and the retailer of the debit cards deviates from the suggested retail price as filed in the tariff, then the Company will withdraw its cards from that retail outlet. This Commission strongly suggests that the Company enter into written agreements with its South Carolina retail outlets regarding this policy of abiding by suggested retail pricing prior to the outlet marketing the card.

The Company shall amend its tariff to include provision on the Company's prepaid calling card. In addition, the Company shall include its name on the back of each of its prepaid calling cards.

12. By its Application and testimony at the hearing, Natel requested a waiver from the Commission's requirement to maintain its books within the State of South Carolina according to 26 S.C. Code Ann. Regs. 103-610 (1976). The Commission grants the Company's request to waive the record keeping regulation so that its books and

records may be kept at its principal office and headquarters in Oklahoma. The Commission also grants Natel the opportunity to keep its books and records in accordance with GAAP rather than the USOA.

- 13. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.
- 14. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

E. Walsh

Chairman

ATTEST:

Executive Director

(SEAL)